



## Memorandum

**To:** Code & Regulation Committee

**From:** Angela L. Hammer, Assistant City Attorney

**Subject:** Proposed Revisions to the Residential Quality Support Ordinance

**Date:** May 5, 2015

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The Residential Quality Support Ordinance (the “Rental Registry”) was approved by City Council in February 2013. *City of Rockford Code of Ordinances Section 17-42*. The ordinance requires owners of residential rental property that is occupied to register said property and provide contact information. The deadline to register occupied rental property was April 1, 2014. During the implementation of the Rental Registry, we determined that amendments to the ordinance would assist in our enforcement efforts.

### Modify Definition of “Residential Rental Property”

The first proposed amendment is to modify the definition of “residential rental property” in the ordinance. The current definition of “residential rental property” is “any property on which one or more dwelling units are located that the owner thereof rents, either entirely or in part, to another person for occupancy as a dwelling unit.” In order to prove that the owner “rents” the residential property, we must provide evidence that the owner receives payment in exchange for the tenant’s use of the property. This is a difficult burden to meet with the information available in the prosecution of the violation. As such, we propose amending “rents” to “lets” in the definition of “residential rental property.” “Let/Let for occupancy” means “to permit, provide or offer possession or occupancy of a dwelling unit by a person who is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to an unrecorded agreement of contract for the sale of land.” This amendment would allow us to more effectively prosecute violations of the ordinance.

### Revise Fine Structure

The second proposed amendment is to revise the fine structure to allow discretion in the imposition of the fine for failure to register. Currently, the ordinance mandates a minimum of \$50 per day of the violation until the property owner is in compliance. The minimum fine for failing to register under the current ordinance exceeds \$15,000. Staff suggests amending Section 17-42 to “a fine up to \$750 per day of the violation until the owner is in compliance.” The proposed amendment will allow staff to seek a reasonable fine for property owners that fail to register rental property.

### Strike Requirement to Renew Registration

The third proposed amendment is to strike the requirement to renew registration every two years. Section 17-43(b) currently requires the owners of residential rental property to renew their registration every two years. Staff suggests requiring owners of residential rental property to provide updated information within thirty days of any change in status.

#### Broaden Definition of “Chronic Nuisance Activity”

The fourth proposed amendment is to broaden the definition of “chronic nuisance activity” in Section 17-42 (c). Under the current ordinance, the definition of “chronic nuisance activity” is:

nuisance activity which occurs on three or more instances, on the same property or dwelling unit, during any 120-day period of any one or any combination of the activities listed below and as a result of any three separate factual events that have been independently investigated by any law enforcement agency that have resulted in an arrest, issuance of a warrant for an arrest, or issuance of a ticket or citation.

1. Disorderly conduct as defined in section 26-1 of the Criminal Code of 1961.
2. Any felony crime or class A misdemeanor.
3. Violation of chapter 19, sections 19-4 or 19-5 of the City Code controlling offensive use of property.

Staff recommends broadening the definition of “chronic nuisance activity” to include quality of life ordinance violations including property standards and sanitation code violations. Examples of quality of life ordinance violations include offensive use of property, nuisance noise, public urination/defecation, and public drinking. A broader definition of “chronic nuisance activity” is expected to result in qualifying cases for referral to the Housing Board.

#### Nominal Amendments

In addition to the substantive amendments that staff proposes, there are several nominal amendments recommended to correctly refer to the current Criminal Code, proper subsections in the ordinance and the Community and Economic Development Department. Staff recommends the following amendments to correct references within the ordinance:

1. Section 17-42(c)(1) refers to the Criminal Code of 1961 and should be amended to refer to the Criminal Code of 2012.
2. Section 17-44(c) refers to Section 17-41(c) and should be amended to correctly cite Section 17-42(c).
3. Section 17-44(f) refers to Section 17-43(a) and should be corrected to refer to Section 17-44(a).
4. Section 17-45(a)(1) refers to Section 17-41(c), and should be amended to refer to Section 17-42(e).
5. Section 17-45(a)(2) incorrectly refers to Section 17-43 and should be amended to refer to Section 17-44.
6. Section 17-45(a)(3) incorrectly cites Section 17-43(a) and 17-43(b) and should be amended to refer to Sections 17-44(a) and 17-44(b) respectively.
7. Section 17-45(d)(4) incorrectly refers to Section 17-43(b), and should be amended to refer to Section 17-44(b).
8. Section 17-47 refers to the community development department and should be amended to the community and economic development department.

#### Staff's Recommendation

Staff recommends approving the above-listed amendments to enhance enforcement efforts and address chronic nuisance activity. A red-lined draft of the recommended amendments is attached for your review.